

United States Court of Appeals For the First Circuit

No. 22-1273

U.S. BANK NATIONAL ASSOCIATION, as trustee, on behalf of the holders of the Asset Backed Securities Corporation Home Equity Loan Trust, Series NC 2005-HE8, Asset Backed Pass-Through Certificates, Series NC 2005-HE8,

Plaintiff - Appellee,

v.

ERIC RICHMOND, a/k/a Eric Richmond,

Defendant - Appellant,

CITIMORTGAGE, INC., f/k/a Citicorp Mortgage Securities, Inc.,

Defendant.

Before

Lynch, Kayatta and Gelpí,
Circuit Judges.

JUDGMENT

Entered: September 29, 2022

Defendant-appellant Eric Richmond appeals from an interlocutory ruling by the district court in the underlying civil matter. Plaintiff-appellee U.S. Bank National Association, as trustee, on behalf of the holders of the Asset Backed Securities Corporation Home Equity Loan Trust, Series NC 2005-HE8, Asset Backed Pass-Through Certificates, Series NC 2005-HE8 ("U.S. Bank"), has moved to dismiss for lack of finality.

After careful review of relevant portions of the record, we conclude that the appeal does not present a "substantial question," as the challenged district court order is not final or reviewable on an interlocutory basis. See 1st Cir. R. 27.0(c) (court may dismiss at any time when appellate jurisdiction is lacking); see also 28 U.S.C. §§ 1291, 1292 (statutory finality requirement); Cohen v. Beneficial Indus. Loan Corp., 337 U.S. 541, 545-47 (1949) (describing collateral order doctrine); John's Insulation, Inc. v. L. Addison & Associates, Inc., 156 F.3d 101, 105 (1st Cir. 1998) ("[I]t has been uniformly held that a notice of appeal that designates the final judgment

encompasses not only that judgment, but also all earlier interlocutory orders that merge in the judgment.").

Additionally, with its motion to dismiss, U.S. Bank seeks the imposition of sanctions under Fed. R. App. P. 38, as well as the imposition of a filing restriction pursuant to Cok v. Family Court of R.I., 985 F.2d 32, 35 (1st Cir. 1993). The requests are denied, though U.S. Bank is free to seek the imposition of filing restrictions and/or sanctions in the district court. Further, Richmond is warned that the imposition of a filing restriction and/or the imposition of sanctions may result if further frivolous interlocutory appeals are filed. As set out above, this court is a court of limited jurisdiction, and Richmond is strongly cautioned against noticing further appeals from rulings that clearly are not reviewable by this court on an interlocutory basis. All other pending motions are denied as moot.

The appeal is dismissed. See 1st Cir. R. 27.0(c).

By the Court:

Maria R. Hamilton, Clerk

cc:

Reneau Jean Longoria
Eric Richmond